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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------|------------------|
| 10/627,942 | 07/25/2003 | Frederick J. Kiko | EXCEL.007A | 3680 |
| 7590 GAZDZINSKI & ASSOCIATES Suite 375 11440 West Bernardo Court San Diego, CA 92127 | | | EXAMINER DINH, TUAN T | |
| | | | ART UNIT 2841 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
| 3 MONTHS | 01/03/2007 | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/627,942 | KIKO, FREDERICK J. | |
| | Examiner Tuan T. Dinh | Art Unit 2841 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 October 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6, 15-20, 35-46 and 48-56 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1-6, 19, 20, 35-40, 45, 46 and 48-53 is/are allowed.
 6) Claim(s) 15-18, 41-44, 54-56 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

Note of claimed language:

Examiner is considered the term "adapted to" as well defined as an intended use limitation. The claim limitation, that employ phrases of the type "adapted to" is typical claim limitation, which may not distinguish over prior art according to the principle. It has been held that the recitation that an element is "adapted to" perform or is "capable of" performing a function is not positive limitation but only requires the ability to so perform, see *In re Venezia*, 189 USPQ 149 (CCPA) 1976).

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 41-44, 55-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 41, lines 9-11, it is unclear because, first the examiner does not sure what is cable mounted connectors are, and also, in line 10 of claim 41, what is the term "said connector" would refers to?

Regarding claim 56, lines 12-13, it is unclear because the phrase of "said pigtail connector does not mate with any of said first, second, and third connector" as in lines 7-8, the applicant recites "an interface element...and pigtail connector" and in lines 9-11

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said "said first, second, third, and pigtail connector are disposed on a common side of said interface element" so that means they are not related and disposed in separately on the common side of the interface element, what the pigtail has to mate to one of the first, second, and third connector? Please, clarify.

Regarding claim 55, lines 1-2, it is unclear. The phrase of "The backplane element further comprising a plurality of capacitors element disposed proximate said backplane element" is not understood because the capacitor elements disposed proximate that means the capacitors are not on or separately to the backplane element so the capacitor are nothing to do or provide any functions to the backplane element at all.

Please, clarify.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 15-16, 41-42, 54-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Plotts et al. (U.S. Patent 6,485,192).

As to claim 15, 41, 56, Plotts discloses a backplane element as shown in figure 5, comprising:

a first multi-terminal connector (36) disposed substantially juxtaposed to a second multi-terminal connector (36), see column 4, line 39;

a connector cable (62), said cable electrically mated to a pigtail connector (163); a third multi-terminal connector (front connector where the connector 62 inserted into) that interfaces with terminals of an electronics insert element associated with said backplane element; and

an interface element (board or substrate 80) disposed electrically between said third connector and said first, second, and pigtail connectors;

wherein the first and second connectors (36), and said pigtail connector (163) are all substantially disposed on a common side of said interface element (80).

As to claims 16, 42, Plotts discloses said first multi-terminal connector (36) is adapted for use (intended use) as a plain old telephone system (POTS) signal interface; said second multi-terminal connector is adapted for use as an outside plant interface; and said pigtail connector is adapted to provide electrical communication with a DSL access multiplexer (DSLAM).

As to claims 54-55, Plotts discloses a backplane element as shown in figure 5, comprising:

a connector cable (62) mated to a pigtail connector (163); a multi-terminal connector (front connector where the connector 62 inserted into) that interfaces with terminals of an electronics insert element associated with said backplane element; and the backplane element is substantially unitary and removable component from a housing assembly.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17-18, 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotts ('192) in view of Grimes et al. (U.S. Patent 6,402,393).

Plotts discloses all of the limitations of the claimed invention, except for a plurality of capacitive elements disposed proximate said backplane element, said capacitive elements adapted to provide the high-pass filter functionality.

Grimes et al. teaches an interconnection system as shown in figures 1-5 comprising a plurality of capacitive elements disposed proximate said backplane element, see column 5, lines 1-36.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a teaching of Grimes et al. employed in the backplane element of Plotts in order to provide high or low pass filter.

Allowable Subject Matter

7. Claims 1-6, 19-20, 35-40, 45-46, and 48-53 are allowed.

The following is an examiner's statement of reasons for allowance: the references cited fail to disclose or obvious in combination of a backplane element comprising a plurality of ports, the ports having first and second type ports, and each having different electrical interface configurations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

8. Applicant's arguments with respect to claims 1-6, 15-20, 35-46, and 48-56 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T. Dinh whose telephone number is 571-272-1929. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reichard Dean can be reached on 571-272-1984. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tuan Dinh
December 22, 2006.
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